

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MSP Recovery Claims, Series LLC,

Plaintiff,

-against-

1199SEIU Benefit and Pension Funds,

Defendant.

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 10/13/2020

1:20-cv-01480 (JPO) (SDA)

ORDER

**STEWART D. AARON, United States Magistrate Judge:**

Following a telephone conference with the parties, and for the further reasons stated on the record, it is hereby ORDERED, as follows:

1. Defendant's Letter Motion (ECF No. 42), insofar as it seeks to withdraw deemed admissions and seeks an enlargement of time to respond to them, is GRANTED IN PART and DENIED IN PART. I find, in my discretion, that withdrawal of the deemed admissions would promote the presentation of the merits of the action and I am not persuaded that it would prejudice the Plaintiff in maintaining the action on the merits.

*See Fed. R. Civ. P. 36(b); see also River Light V, L.P. v. Lin & J Intern., Inc., 299 F.R.D. 61, 64 (S.D.N.Y. 2014) (“Even where the moving party’s neglect is unjustified, a refusal to permit withdrawal of deemed admissions may be an overly harsh sanction when a deemed admission would be dispositive of the litigation and no unfair prejudice would result from withdrawal.”). No later than October 23, 2020, Defendant shall respond to Plaintiff’s First Set of Requests for Admissions (ECF No. 42-1.)*

2. Insofar as Defendant's Letter Motion (ECF No. 42) seeks to enlarge the time for Defendant to respond to the pending summary judgment motion, it is DENIED WITHOUT PREJUDICE. Any application regarding the summary judgment motion shall be addressed to District Judge Oetken in accordance with his Individual Rules.

**SO ORDERED.**

DATED:       New York, New York  
October 13, 2020



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STEWART D. AARON  
United States Magistrate Judge